

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ERNEST LEE COX, Jr.,
Plaintiff,

v.

VASUKI DARAM, et al.,
Defendants.

No. 2:20-cv-1295 KJM DB P

ORDER

Plaintiff is a state prisoner proceeding with a civil rights action under 42 U.S.C. § 1983. On August 18, 2021, this court recommended the district judge grant defendants' motion to dismiss for plaintiff's failure to exhaust his administrative remedies prior to filing suit. On September 13, 2021, plaintiff filed a complaint, motion to proceed in forma pauperis, and motion for a preliminary injunction. On September 20, plaintiff filed a copy of his prisoner trust account statement. The Clerk of the Court inadvertently filed these documents in the present case, labelling the complaint a third amended complaint. From the face of the complaint, it is apparent that plaintiff intended to initiate a new action.

Accordingly, IT IS HEREBY ORDERED as follows:

1. The complaint (ECF No. 51), motion to proceed in forma pauperis (ECF No. 52), and motion for a preliminary injunction (ECF No. 53) filed September 13, 2021 are dismissed without prejudice.

1 2. The prisoner trust account statement (ECF No. 54) filed September 20, 2021 is
2 dismissed without prejudice.

3 3. The Clerk of the Court is directed to open a new action and include the documents filed
4 by plaintiff on September 13 and September 20, 2021.

5 Dated: September 29, 2021

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9 DEBORAH BARNES
10 UNITED STATES MAGISTRATE JUDGE
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16 DB Prisoner Inbox/Civil Rights/R/cox1295/new action
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